

APPEAL NO. 040066
FILED FEBRUARY 18, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 17, 2003. The hearing officer determined that the appellant (claimant) sustained a compensable injury, that the date of the injury was _____, and that the claimant had disability from April 4 through June 9, 2003. The claimant appeals the disability determination and argues that the hearing officer should have additionally found that the claimant had disability from October 16, 2003, through the date of the hearing. The respondent (carrier) urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

Disability was a factual question for the hearing officer to resolve. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer noted that Dr. G examined the claimant on August 28, 2003, and opined that he would be able to return to full-duty work in approximately one month. The hearing officer found Dr. G's opinion more credible than the evidence reflecting that the claimant could only work light duty at the time he was laid off and, therefore, did not find that the claimant had disability after October 16, 2003. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **COMMERCE & INDUSTRY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge